UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,456	11/10/2003	Matt Clark	109927-135179	6697

25943	7590	11/28/2005

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER
DAGOSTA, STEPHEN M

ART UNIT	PAPER NUMBER
2683	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/705,456	CLARK ET AL.
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _21 November 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _3-21_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _3-17_ is/are rejected.

7)☒ Claim(s) _18-21_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 3-21 have been considered but are moot in view of the new ground(s) of rejection.

1. The applicant has cancelled claim 1 and therefore overcomes the examiner's objection/rejection.

2. The examiner continues to <u>uphold</u> his doubling patenting rejection since the term "a parameter processing module for processing function-specific parameters, including device information for the-wireless mobile device, for one of said plurality of generic executable service functions wherein said function-specific parameters are associated with one of said generic executable service functions" is broadly interpreted as being a software module in the 2004/0138961 application. The examiner asserts that at least one software module in the 2004/0138961 will be required to process function-specific parameters to/from the user's device. <u>A terminal disclaimer is still requested.</u>

3. Upon further reconsideration, the examiner believes a <u>more favorable outcome would occur</u> if the applicant were to <u>amend</u> previously presented claims as follows:

      a. Claim 3 + claim 4 + (claim 5 or 6)

      b. Claim 7 + claim 8 + (claim 9 or 10)

      c. Claim 11 + claim 12 + (claim 13 or 14)

4. The examiner objects to claims 18-21 as containing novel material.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 3-21 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 2004/0138961. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims recite handling a data request/query sent from a client via an programming interface layer/API application to service provider(s) application(s)/server(s) to obtain "a response" (eg. solution set) which is generated and sent from said applications(s)/server(s) to said client. This application claims "encapsulation" which is well known in the art and is commonly used by communications protocols as well as applications when sending a request between systems (eg. when using HTTP, CGI, XML, etc.).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims ~~1-2~~ 3-4, 6-8, 10-12 and 14-17 rejected under 35 U.S.C. 103(a) as being

unpatentable over Shapiro et al. US 2002/0120787 and further in view of Fischer et al.

US 2003/0046448 and Jones et al. US 6,216,173.

As per **claims ~~1,~~ 3, 7 and 11 and 15**, Shapiro teaches a computer implemented

method/system/interface/medium for accessing a wireless mobile device service

provider server (figures 2a-c shows system and P#63 teaches wired/wireless

connections, figures 4-5, 7, 9-12), comprising:

~~encapsulating a function call encapsulation of a function-specific parameter~~

~~identified~~ *and* ~~associated with an executable~~ programming interface layer function

(P#64 teaches either using an HTTP request directly and/or using other executable

components to broker the request to an application server, which the primary examiner

interprets as encapsulating/translating a function call of a specific parameter of said

request so as to retrieve data from a server. Also see P#65-70, 81 and 107-110);

a programming interface layer <u>to facilitate delivery of data services to client</u>

<u>devices by any of a plurality of vendors via the service provider, the interface includes</u>

<u>plurality of generic executable functions callable by any of the plurality of vendors to</u>

<u>facilitate delivery of a plurality of heterogeneous data services</u>, (Shapiro shows, figure 1,

a client connected to a web server with a CGI Script/Program connecting to a database,

whereas figure 2 shows Application Servers (eg. vendor service providers) connecting

to the web server via "generic programming interface" (eg. CGI Script). The vendors

can access the web server via the callable CGI scripts).

but is silent on generating a programming interface function call directed to said

executable programming interface layer function, ~~wherein said programming interface~~

~~function call includes said function call encapsulation of data; and obtaining an
indication of an programming interface response from said executable programming
interface layer function.~~

Fischer teaches a "programming interface layer" for mobile/handheld devices so
applications may run on any of such devices without specific programming for device
specific dependencies (Abstract, figures 1-3 and P#11):

Jones teaches: "...Remote service call (RSC) manager 125 enables
simple, high performance function calls to be passed between CPR
services, independently of location. The remote service call
manager handles the packaging or <u>encapsulation of function calls</u>
and parameters into media objects for delivery to the
appropriate service and the unpackaging at the receiving end.
The remote service call manager also manages the return and
packaging/unpackaging of results as media objects. The
interaction between the RSC manager and CPR services is
described more fully with respect to FIGS. 2, 4, and 5A-B, later
in this specification....". (C23, L30-65)

With further regard to claim 3, Shapiro teaches a processor and memory
coupled to the processor having a plurality of programming instructions implementing a
programming interface layer for service provider delivery of data services to client
devices (figures 2a-c show webservers and applications servers which have software to
interface and deliver data to client(s)), the programming interface layer including
solution delivery functions usable by any of a plurality of vendors to deliver solutions via
the service provider (figures 2a-c show multiple application servers connecting to a web
server which connects to the client). ***All else for this claim is found above in claim 1.***

With further regard to claim 7, Sharpiro teaches solution delivery functions
usable by any of a plurality of vendors to deliver solutions via the service provider (see
figures 2a-c which show various application servers and databases/backend systems
connected to at least one web server, which reads on the claim).

With further regard to claim 11 __and 15,__ Sharpiro teaches a computer readable medium containing computer executable instructions for a programming interface layer for service provider delivery of data services to client devices (figures 2a-c show the computer components of the system which inherently require computer readable medium and software to perform Sharpiro's described method/operation).

It would have been obvious to one skilled in the art at the time of the invention to modify Shapiro, such that there is a programming interface layer, it generates a programming interface function call directed to said executable programming interface layer function, wherein said programming interface function call includes said function call encapsulation of data and obtains an indication of an programming interface response from said executable programming interface layer function, to provide means so mobile device application can run on any of such devices without specific programming for device specific dependencies and encapsulation is provided between the disparate communications system and service provider hardware to ensure the data is delivered correctly without need for translation.

As per **claims 4, 8 and 12 __and 17__**, Shapiro teaches Claim 3/7/11, wherein the programming interface layer further comprises a scheduling module for scheduling tasks via said executable service functions (P#17 and #27).

As per **claims 6, 10 and 14**, Shapiro teaches Claim 3/7/11, **but is silent on** wherein said programming interface layer defines a plurality of methods including at least a selected one of AddMessage, Equals, AddData, Getstring, GetEnumerator, Createuser, Deleteuser, DoesuserExist, Getsirupconcepts, GetsupportedData, GetuserData, Logon, ModifyuserData, SetIdentity, Setpassword, SetprimaryuserData, AppendResource, AppendResourceReference, DoFeaturecommand, Dosolutioncommand, GetDeck, GetResources, Submitconcepts, GetInfo, and GetInfoRequest.

The primary examiner notes that many of the above are well known. The examiner takes **official notice** that at least one of these methods would be provided by one skilled in the art, such as:

a. CreateUser – to create user(s)

b. Logon – to create a user logon

c. Setpassword – to set a user's password when their account is created

The primary examiner notes that Microsoft Windows has features such as these when a system administrator sets up a new user account.

It would have been obvious to one skilled in the art at the time of the invention to modify Shapiro, such that the programming interface layer defines a plurality of methods, to support various software methods/messages which are known in the art of software coding and provide means for using them in the different service providers' applications.

As per **claim 16,** Shapiro teaches claim 15 further comprising directing said function-specific response to a specific wireless mobile device (figure 1 shows the user's client device which would receive the response).

Claims 5, 9 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Shapiro/Fischer/Jones and further in view of Wookey et al. US 2003/0177259 and Wray US 2001/0010076.

As per **claims 5, 9 and 13**, Shapiro teaches Claim 3/7/11 **but is silent on** wherein said programming interface layer defines a plurality of classes including at least a selected one of AnswersResponse, BinaryResource, BooleanResponse, ClientInfo, CodeResponse, Concepts, ConceptsResponse, Conceptvalues, ConfiFile, DeckResponse, Device, Devices, Identity, ImageResource, InfoRequest, InfoRequestResponse, InfoResponse, Message, MessageResponse, Resotlrce; ResourceReference, ResourcesResponse, Response, Result, User, and UserDatGesponse.

Wookey teaches remote services systems data delivery (title, abstract) and "...A
MessageResponse element represents an error response to a re-
ceived message. The content includes enough information for the
sender to relate the error to a sent message and determine what
it needs to do to handle the error condition...". (Page 15, Table C –
continued).

Wray teaches a security protocol system supporting self-describing markup
language(s) such as XML (Title and abstract) and "...<!ELEMENT primaryResource
(*ResourceReference*)> <!ELEMENT secondaryResources
(ResourceReference*)> <!ELEMENT handlerInfo (ResourceInfo*)>
<!ELEMENT payloadType (%PayloadType;)> <!ELEMENT
ResourceReference (#PCDATA)> <!ELEMENT ResourceInfo(#PCDATA)>..."
(page 12, see 5 bottom lines).

It would have been obvious to one skilled in the art at the time of the invention to
modify Shapiro, such that the programming interface layer defines a plurality of classes
(above), to support various software classes which are known in the art of software
coding and provide means for using them in the different service providers' applications.

Allowable Subject Matter

Claims 18-21 objected to as being dependent upon a rejected base claim, but
would be allowable if rewritten in independent form including all of the limitations of the
base claim and any intervening claims.

As per claims 18-21, the prior art does not teach, alone or in combination,
wherein the heterogeneous data services include one of making airline reservations,
ordering flowers, making hotel reservations, making reservations at a restaurant,
locating a place on a map and booking a rental car.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta
Primary Examiner
11-22-2005